

**UNITED STATES DISTRICT COURT**  
**Southern District of Indiana**  
**Office of the Clerk**

Room 105  
U.S. Courthouse  
Indianapolis, Indiana 46204

Laura A. Briggs, Clerk  
(Voice) 317-229-3700  
(FAX) 317-229-3704

December 10, 2004

**N O T I C E**

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE  
SOUTHERN DISTRICT OF INDIANA

Whereas the Court has considered the recommendation of the Local Rules  
Advisory Committee that certain Local Rules be amended; and

Whereas the Clerk issued a Public Notice on November 1, 2004, regarding the  
recommended amendments; and

Whereas the Court has considered such proposed amendments and the  
comments received, and has determined that the amendments should be adopted,

**IT IS NOW ORDERED** pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal  
Rules of Civil Procedure that the following amendments to the Local Rules of this Court  
are adopted, effective January 1, 2005. Unless otherwise indicated, as seen in this  
Notice **redline** text is added and **struck** text is deleted.

**A. Local Rule 81.2 - Corporate and Business Entity Disclosure Statement**, shall be  
**renumbered Local Rule 7.2** to maintain consistency in numbering with the Federal  
Rules of Civil Procedure.

**B. Local Rule 16.1** shall be **amended** as follows:

**Local Rule 16.1 - Pretrial Procedures**

~~(a) Purpose. The fundamental purpose of pretrial procedure as provided in Rule  
16 of the Fed. R. Civ. P. is to eliminate issues not genuinely in contest and to facilitate  
the trial of issues that must be tried. The normal pretrial requirements are set forth in  
Rule 16 of the Fed. R. Civ. P. It is anticipated that the requirements will be followed in~~

~~all respects unless any Judge of this Court shall vary the requirements and shall so advise counsel. The following provisions shall also apply to the conduct of pretrial conferences by a United States Magistrate Judge and where applicable, reference to the Judge or the Court shall include a United States Magistrate Judge.~~

~~(b) Notice. In any civil case, the assigned or presiding Judge may direct the Clerk to issue notice of a pretrial conference, directing the parties to prepare and to appear before the Court.~~

~~(a - c )~~ Initial Pretrial Conference and Case Management Plan. In any civil case, the assigned or presiding Judge may direct the Clerk to issue notice of a pretrial conference, directing the parties to prepare and to appear before the Court.

~~(1) In all cases not exempted pursuant to subsection (e - b ) of this Rule, the Court shall order the parties to appear for an initial pretrial conference. no more than 120 days after the filing of the complaint. The order setting the conference shall issue promptly following the appearance of counsel for all defendants and in any event no later than sixty days after the filing of the complaint.~~

~~(2) The order setting the initial pretrial conference, in addition to such other matters as the Court may direct, shall require counsel for all parties to confer at least 21 days before the initial pretrial conference (as required by FED. R. CIV. P. 26(f)), prepare a case management plan and to file such plan by a date specified in the order, which date shall not be later than 14 days after the parties meet pursuant to FED.R.CIV.P. 26(f). The order may provide that the initial pretrial conference shall be vacated upon the filing of a case management plan that complies with this Rule and upon the approval of such plan by the Court.~~

(2) Unless otherwise ordered or exempted by subsection (e) of this Rule, the parties shall confer and prepare a case management plan and file it no later than 90 days from the date the case was filed or removed.

~~(-3) Upon the filing of an acceptable case management plan in compliance with the order and this Rule, the Court may issue an order adopting the plan, ordering it performed, vacating the initial pretrial conference setting, and setting a firm trial date.~~

(3) Counsel for plaintiff shall be responsible for conferring with opposing counsel and coordinating timely completion and filing of the case management

plan. If plaintiff fails to do so, counsel for defendant shall appear at the initial pretrial conference with a proposed case management plan.

(4) If the parties cannot agree on all provisions of the case management plan the parties shall file a joint plan setting forth their respective positions in the disputed portions of the case management plan. The court shall enter a case management plan that the court deems most appropriate with or without additional input from the parties.

~~If the parties do not file a case management plan, or file a plan that fails materially to comply with the order and this Rule, or file a plan that reflects material disagreements among the parties, the Court may: each party shall reflect their particular viewpoint to~~

~~(A) Conduct the initial pretrial conference and, following such conference, enter an order reflecting the matters ordered and agreed to at the conference and setting a firm trial date; or~~

~~(B) Issue an order without further hearing adopting the acceptable portions of the plan, omitting unacceptable portions, supplying omitted matters, resolving disputed matters, vacating the pretrial conference setting and setting a firm trial date. The Court may conduct a telephone conference with counsel prior to entering such an order.~~

~~(b -d)~~ Format Content of Case Management Plan. Counsel shall complete the Uniform Case Management Plan in accordance with the instructions and form found on the Court's website: <http://www.insd.uscourts.gov/forms.htm>

~~(1) The objective of the case management plan is to promote the ends of justice by providing for the timely and efficient resolution of the case by trial, settlement or pretrial adjudication. In preparing the plan, counsel shall confer in good faith concerning the matters set forth below and any other matters tending to accomplish the objective of this Rule. The plan shall incorporate matters covered by the conference on which the parties have agreed as well as advise the Court of any substantial disagreements on such matters.~~

~~(2) The conference and case management plan shall address the following matters:~~

~~(A) Trial date. The plan should be premised on a trial setting between six and eighteen months after the filing of the complaint and should recommend a trial date by month and year. If counsel agree that the case~~

cannot reasonably be ready for trial within eighteen months, the plan shall state in detail the basis for that conclusion. The plan shall also state the estimated time required for trial.

~~(B) Synopsis of case. The plan shall include the essential legal elements of each claim or defense upon which a party bears the burden of proof, and a description of the amount of any lost wages, medical bills or other damage amounts that are liquidated.~~

~~(C) Discovery subjects. The plan shall identify the subjects on which discovery is needed.~~

~~(D) Discovery schedule. The plan shall provide for the timely and efficient completion of discovery, taking into account the desirability of staged discovery where discovery in stages might materially advance the resolution of the case. The plan should schedule the exchange of initial disclosures under FED. R. CIV. P. 26(a)(1) and L.R. 26.3. The plan shall provide for disclosure of expert witnesses as required by FED. R. CIV. P. 26(a)(2)(A), and the parties shall discuss any stipulations with respect to the timing and requirements of expert reports under that Rule. The plan should also provide a schedule for the taking of the depositions of expert witnesses, together with (1) a designation whether the deposition is for discovery purposes only or is to be offered in evidence at trial, (2) a determination of the party responsible for the payment of the witness' fees, and (3) as to each witness designated, when any motions seeking to preclude the expert's testimony shall be filed.~~

~~(E) Witnesses and exhibits. The plan shall incorporate a schedule for the preliminary and final disclosure of witnesses and exhibits and should schedule the pretrial disclosures required by FED. R. CIV. P. 26(a)(3).~~

~~(F) Limits on depositions, interrogatories, and admissions. The plan shall discuss whether the limits on the number or length of depositions imposed by FED. R. CIV. P. 30(a)(2)(A), 31(a)(2)(A), and 30(d), the number of interrogatories imposed by FED. R. CIV. P. 33(a), or the number of admissions under L.R. 26.1(b) should be varied by stipulation.~~

~~(G) Motions. The plan shall identify any motions which the parties have filed or intend to file. The parties shall discuss whether any case-dispositive or other motions should be scheduled in relation to discovery or other trial preparation so as to promote the efficient resolution of the~~

~~case and, if so, the plan shall provide a schedule for the filing and briefing of such motions.~~

~~(H) Stipulations. The plan shall address possible stipulations and, where stipulations would promote the efficient resolution of the case, the plan shall provide a schedule for the filing of stipulations.~~

~~(I) Bifurcation. The plan shall address whether a separation of claims, defenses or issues would be desirable; and if so, whether discovery should be limited to the claims, defenses or issues to be tried first.~~

~~(J) Alternative dispute resolution. The plan shall address the desirability of employing alternative dispute resolution methods in the case, including mediation, neutral evaluation, arbitration, mini-trials or mini-hearings, and summary jury trials.~~

~~(K) Settlement. The plan shall address the possibility of settlement both presently and at future stages of the case. The plan may provide a schedule for the exchange of settlement demands and offers, and may schedule particular discovery or motions in order to facilitate settlement.~~

~~(L) Referral to a Magistrate Judge. The plan shall address whether the parties consent to the referral of the case to a Magistrate Judge.~~

~~(M) Amendments to the pleadings; joinder of additional parties. The plan shall address whether amendments to the pleadings, third party complaints or impleading petitions, or other joinder of additional parties are contemplated. The plan shall impose time limits on the joinder of additional parties and for amendments to the pleadings.~~

~~(N) Other matters. The plan shall address (1) whether there is a question of jurisdiction over the person or of the subject matter of the action, (2) whether all parties have been correctly designated and properly served, (3) whether there is any question of appointment of a guardian ad litem, next friend, administrator, executor, receiver or trustee, (4) whether trial by jury has been timely demanded, (5) whether related actions are pending or contemplated in any Court, and whether there is any need for protective orders under FED. R. CIV. P. 26(c).~~

~~(O) Interim pretrial conferences. The parties shall discuss whether interim pretrial conferences prior to the final pretrial conference should be scheduled.~~

~~(c e-) Additional Pretrial Conferences. Additional pretrial conference(s) shall be held as ordered by the Court. Counsel should expect that additional conferences may be set. At any such conference, counsel shall be prepared to address case management plan issues, settlement, trial readiness, and any other matters specifically directed by the Court. Prior to all court each such pretrial conferences, counsel shall for all parties will confer , in person or by telephone, to prepare for the conference. Such conference shall include a review of the case management plan and shall address whether the plan should be supplemented or amended. In cases in which pretrial case management is assigned to a Magistrate Judge, counsel shall also discuss whether direct involvement by the District Judge prior to trial might materially advance the case. The discussions of counsel shall be summarized by one of counsel who shall prepare an agenda for the pretrial conference which shall reflect the agreements reached among or between counsel, including any proposed supplements or amendments to the case management plan. It shall be the responsibility of all counsel that an agenda be presented to the Court at the pretrial conference. Failure to present an agenda and failure to confer as required may be grounds for the imposition of sanctions.~~

~~(f) Pretrial Orders. at such time as directed by the court, each party shall submit the following to the trial judge and counsel for each party, unless notified to the contrary:~~

- ~~—— (1) A trial brief, the nature and extent of which shall be directed by the judge. Copies of all foreign statutes involved, with reference to their source, shall also be submitted.~~
- ~~—— (2) In nonjury cases, proposed findings of fact and conclusions of law, including citations for each conclusion of law if available.~~
- ~~—— (3) In jury cases, requested charges to the jury covering issues to be litigated. Each charge should cite appropriate authority.~~
- ~~—— (4) A stipulation of facts relating to jurisdiction and the merits of the issues.~~
- ~~(5) A list of exhibits to be offered at trial, except those to be used solely for impeachment or rebuttal.~~

6) ~~A statement of any objections to exhibits listed by other parties. Unless objections to authenticity are noted, copies of exhibits may be introduced in lieu of originals.~~

(7) ~~A list of names and addresses of witnesses to be called, except those to be called solely for impeachment or rebuttal. The list shall specify the general subject matter of each witness's testimony.~~

~~(g) Preparation of pretrial entry. The Court may order one of counsel to prepare a pretrial entry setting forth the agreements of counsel reached and the orders of Court entered at the pretrial conference. Such entry shall be signed by all counsel. Signature shall affirm that such orders were made but shall not be a waiver of any right to object to such orders.~~

~~(h) Settlement. Counsel should anticipate that the subject of settlement will be discussed at any pretrial conference. Accordingly, counsel should be prepared to state his or her client's present position on settlement. In particular, prior to any conference, counsel should have ascertained his or her settlement authority and be prepared to enter into negotiations in good faith. The Court may require the parties or their agents or insurers to appear in person or by telephone for settlement negotiations. Details of such discussions at the pretrial conference should not appear in the pretrial entry.~~

( ~~d~~ — ~~i~~ ) Deadlines. Deadlines established in any order or pretrial entry under this Rule shall not be altered except by agreement of the parties and the Court, or for good cause shown.

(e) Exempted Cases. Unless otherwise ordered by the court, the following types of cases will be exempted from the scheduling ~~and planning order~~ requirements of Rule 16(b) of the FED. R. CIV. P.:

- (1) An action for review of an administrative record;
- (2) A petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;
- (3) An action brought ~~without counsel~~ by a person in custody of the United States, a State or a State subdivision;
- (4) An action to enforce or quash an administrative summons or subpoena;
- (5) An action by the United States to recover benefit payments;
- (6) An action by the United States to collect on a student loan guaranteed by the United States;
- (7) A proceeding ancillary to proceedings in another court; and

- (8) An action to enforce, vacate or modify an arbitration award.
- (9) Mortgage foreclosures in which the United States is the Plaintiff; and
- (10) Civil forfeiture cases.

~~(j) Sanctions. Should a party willfully fail to comply with any part of this Rule, the Court in its discretion may impose appropriate sanctions.~~

(f) Sanctions. Should a party fail to comply with any part of this Rule, the Court in its discretion may impose appropriate sanctions.

**Commentary:** The fundamental purpose of pretrial procedure as provided in Rule 16 of the FED. R. CIV. P. is to eliminate issues not genuinely in contest and to facilitate the trial of issues that must be tried. The normal pretrial requirements are set forth in Rule 16 of the FED. R. CIV. P. It is anticipated that the requirements will be followed in all respects unless any Judge of this Court shall vary the requirements and shall so advise counsel.

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